

EXHIBIT A

Firgau, Amanda

From: Flack, Christine <Christine.Flack@nlrb.gov>
Sent: Thursday, March 6, 2025 11:52 AM
To: Herman, Andrew; Momanaee, Audrey; djames@clarkhill.com
Cc: Flanagan, Kevin P.; Thomas, Paul; Bowers, Marianne L.; Melton, Phillip H.; Harris, Samuel B.; Ewasiuk, Craig
Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

CAUTION: This email and any attachments may contain Controlled Unclassified Information (CUI). National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

Hi Andrew, when you say “we will agree to an extension for the NLRB’s opposition to the PI motion as long as the same courtesy is extended to the Plaintiff in responding to the NLRB’s motions,” that’s fine, thanks.

From: Herman, Andrew <andrew.herman@blankrome.com>
Sent: Wednesday, March 5, 2025 5:01 PM
To: Flack, Christine <Christine.Flack@nlrb.gov>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com
Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B. <Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>
Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

Hi Christine,

Plaintiff is amenable to your schedule proposal if the NLRB will agree to an order for all administrative proceedings in the underlying NLRB proceeding (NLRB Case 20-CA-335452), including without limitation any hearing before an Administrative Law Judge or deposition sought in connection with such hearing, to be stayed and enjoined in all respects pending further order of the Court. As you know, applying Supreme Court and Fifth Circuit precedent, courts in every other U.S. District Court of Texas have granted a preliminary injunction to enjoin NLRB administrative proceedings. We would be open to a stipulation that the NLRB can seek to have the order reconsidered if the case were transferred.

If the NLRB will not agree to the above, we would propose the following briefing scheduling:

- NLRB transfer motion filed Friday 3/7
- NLRB PI opposition due Friday 3/14
- Dutra PI reply due Friday 3/21
- Dutra transfer opposition due Monday 3/24
- NLRA transfer reply filed Monday 3/31
- Any sur-replies due in accordance with the Court’s Local Rules

We could also extend all of those dates by 1-week.

As we have already informed you that we will agree to an extension for the NLRB’s opposition to the PI motion as long as the same courtesy is extended to the Plaintiff in responding to the NLRB’s motions. We, therefore, do not

see the necessity for the NLRB to file anything today, and we can be available for a call tonight or tomorrow if the NLRB would like to confer further. If the NLRB still plans to file today, do you mind sharing what you intend to represent in the certification of conference prior to filing?

We want to reiterate that we believe motion practice, especially on an expedited basis (which we will oppose), forces the parties and the Court to prematurely expend time and resources on motions that might be unnecessary.

Thank you,

Andrew I. Herman | BLANKROME

One Logan Square | 130 North 18th Street | Philadelphia, PA 19103

O: 215.569.5574 | M: 610.716.7947 | F: 215.501.5822 | andrew.herman@blankrome.com

From: Flack, Christine <Christine.Flack@nlrb.gov>

Sent: Wednesday, March 5, 2025 2:00 PM

To: Herman, Andrew <andrew.herman@blankrome.com>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com

Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B. <Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>

Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

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Hi Andrew,

We propose the following schedule per your proposal to stay the case for a couple of weeks. This gives you a two-week extension of time to oppose our transfer motion, to assist with engaging in discussions with the Region and your client on resolving the ULP case. I sincerely hope that this schedule accommodates your desire for a brief stay and our side's position that venue should be briefed and decided prior to the PI motion being briefed and decided (either by the Eastern District of Texas or by the transferee court) sufficiently in advance of the July ULP hearing.

- NLRB transfer motion filed Friday 3/7
- Dutra transfer opposition filed Friday 4/4
- NLRA transfer reply filed Friday 4/11
- Further briefing on the PI motion is held in abeyance pending resolution of the motion to transfer

If you want an extra weekend, we can move 4/4 to 4/7, and 4/11 to 4/14. But that is our final offer.

Ultimately, I need to know by 5:00pm today if you're amenable to the above. Our side needs to file the scheduling motion today and, thus, the parties need to finalize their conference. To that end, if it would be helpful to get on a call, let us know what time you're available – I have a conflict from 3:00pm-5:00pm ET and will be available after that, and you can reach Paul.

If there is no agreement on the schedule bulleted above, then our abeyance motion will ask for expedited consideration to facilitate resolution before our 3/12 due date. Please confirm your position on that relief when you respond. And, please give confirmation that we may represent that the NLRB's alternative request for a 2-day

extension on our PI opposition (and a requested new due date of 3/14) is unopposed. So to be clear, if you do not agree to the above schedule, I need to know your final position on expedition and the EOT.

Thanks and we look forward to hearing from you.

Best,
Christine

Christine Flack
Supervisory Attorney | National Labor Relations Board
Contempt, Compliance, and Special Litigation Branch
Division of Legal Counsel
1015 Half Street SE, Fourth Floor, Washington, D.C. 20003
Ph: (202) 273-2842 | Fax: (202) 273-4244 | Christine.Flack@nlrb.gov

From: Herman, Andrew <andrew.herman@blankrome.com>
Sent: Tuesday, March 4, 2025 4:20 PM
To: Flack, Christine <Christine.Flack@nlrb.gov>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com
Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B. <Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>
Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

Christine,

In the interest of avoiding multiple email chains, here is body of the email that I sent:

As I said during the meeting yesterday, we would propose jointly requesting a stay of the case for a couple of weeks or a month to allow time for Plaintiff to see if changes under President Trump's recently appointed Acting General Counsel for the NLRB might affect the underlying administrative proceeding. Again, Plaintiff has already notified the Court that the urgency for filing the motion on an emergency basis and seeking a temporary restraining order has been removed, and the NLRB ALJ hearing is currently scheduled to begin on July 8, 2025. A stay would avoid premature expenditure of time and resources by Plaintiff, the government, and the Court on motion practice which might be unnecessary.

If the NLRB will not entertain even a brief stay, Plaintiff will oppose a motion to transfer and a motion seeking to hold Plaintiff's motion for a preliminary injunction in abeyance pending a ruling on transfer. Plaintiff will agree to up to a 1-week extension of time for the NLRB to file its opposition to Plaintiff's motion for preliminary injunction, with the understanding that the NLRB will agree to the same courtesy with respect to the motions that the NLRB intends to file.

We can be available for a call tomorrow if the NLRB would like to confer further.

Since Plaintiff is willingness to agree to an extension for the NLRB to file its opposition to Plaintiff's motion for preliminary injunction, we assume the NLRB does not intend to seek expedited consideration of the latter motion, but please confirm that. Please also let us know if you believe more is needed with respect to the parties' positions for the certificate of conference under the Court's Local Rules.

Thank you,

Andrew I. Herman | BLANKROME

One Logan Square | 130 North 18th Street | Philadelphia, PA 19103

O: 215.569.5574 | M: 610.716.7947 | F: 215.501.5822 | andrew.herman@blankrome.com

From: Flack, Christine <Christine.Flack@nlrb.gov>

Sent: Tuesday, March 4, 2025 4:02 PM

To: Herman, Andrew <andrew.herman@blankrome.com>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com

Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B. <Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>

Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

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Thank you.

From: Herman, Andrew <andrew.herman@blankrome.com>

Sent: Tuesday, March 4, 2025 3:56 PM

To: Flack, Christine <Christine.Flack@nlrb.gov>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com

Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B. <Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>

Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

Christine,

It looks like our emails crossed, please see the message that I just sent.

Thank you,

Andrew I. Herman | BLANKROME

One Logan Square | 130 North 18th Street | Philadelphia, PA 19103

O: 215.569.5574 | M: 610.716.7947 | F: 215.501.5822 | andrew.herman@blankrome.com

From: Flack, Christine <Christine.Flack@nlrb.gov>

Sent: Tuesday, March 4, 2025 3:51 PM

To: Herman, Andrew <andrew.herman@blankrome.com>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com

Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B. <Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>

Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

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Hi Andrew,

Thanks. Will you be able to let us know in the next hour or two, by close of business? While we agreed to not file our abeyance motion yesterday, we intend to file today. Under EDTX local rules, our motion has to include a certificate of conference, and an opposed motion must explain why the parties could not reach agreement. We are requesting Plaintiff's position and appreciate you getting back to us asap, by cob today would be appreciated.

If abeyance is opposed, we remain open to discussing and exploring whether there is room to find an agreement on a schedule that could work for both sides. Short of that, we will also need your position on the Court expediting consideration of the motion as described in my email and as we discussed yesterday. And we would need confirmation that we may represent that the NLRB's alternative request for a 2-day extension on our PI opposition (and a requested new due date of 3/14) is unopposed.

I'd very much appreciate you letting us know Plaintiff's position as soon as you can.

Thanks,
Christine

From: Herman, Andrew <andrew.herman@blankrome.com>
Sent: Tuesday, March 4, 2025 1:06 PM
To: Flack, Christine <Christine.Flack@nlrb.gov>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com
Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B. <Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>
Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

Christine, we have discussed with our client and are waiting to hear back. We will let you know as soon as possible.

Andrew I. Herman | BLANKROME

One Logan Square | 130 North 18th Street | Philadelphia, PA 19103
O: 215.569.5574 | M: 610.716.7947 | F: 215.501.5822 | andrew.herman@blankrome.com

From: Flack, Christine <Christine.Flack@nlrb.gov>
Sent: Tuesday, March 4, 2025 11:45 AM
To: Herman, Andrew <andrew.herman@blankrome.com>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com
Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B. <Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>
Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

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Andrew and Audrey—thanks for meeting with us yesterday. As discussed, we'd like to get your client's position today on the NLRB's motion to hold the PI motion in abeyance pending a ruling on our transfer motion. We are open to a briefing schedule and exploring extensions your side may want beyond the normal response time.

Please let us know as soon as you can. We would like to file our motion for abeyance today given the looming deadlines.

If it would be helpful to talk, we're happy to hop on a call.

Thanks,
Christine

Christine Flack
Supervisory Attorney | National Labor Relations Board
Contempt, Compliance, and Special Litigation Branch
Division of Legal Counsel
1015 Half Street SE, Fourth Floor, Washington, D.C. 20003
Ph: (202) 273-2842 | Fax: (202) 273-4244 | Christine.Flack@nrlb.gov

From: Flack, Christine
Sent: Monday, March 3, 2025 1:16 PM
To: Herman, Andrew <andrew.herman@blankrome.com>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com
Cc: Flanagan, Kevin P. <Kevin.Flanagan@nrlb.gov>; Thomas, Paul <Paul.Thomas@nrlb.gov>; Bowers, Marianne L. <Marianne.Bowers@nrlb.gov>; Melton, Phillip H. <Phillip.Melton@nrlb.gov>; Harris, Samuel B. <Samuel.Harris@nrlb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nrlb.gov>
Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

Thank you.

From: Herman, Andrew <andrew.herman@blankrome.com>
Sent: Monday, March 3, 2025 11:55 AM
To: Flack, Christine <Christine.Flack@nrlb.gov>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com
Cc: Flanagan, Kevin P. <Kevin.Flanagan@nrlb.gov>; Thomas, Paul <Paul.Thomas@nrlb.gov>; Bowers, Marianne L. <Marianne.Bowers@nrlb.gov>; Melton, Phillip H. <Phillip.Melton@nrlb.gov>; Harris, Samuel B. <Samuel.Harris@nrlb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nrlb.gov>
Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

A Teams invite has been sent for 2pm ET today.

In the meantime, we wanted to make sure you saw the attached supplement to Plaintiff's motion filed on Friday to notify the Court that the urgency for filing the motion on an emergency basis and seeking a temporary restraining order has been removed. In light of that development, we hope the parties come to an agreement that avoids premature expenditure of time and resources by Plaintiff, the government, and the Court on motions which might be unnecessary.

Thank you,

Andrew I. Herman | BLANKROME

One Logan Square | 130 North 18th Street | Philadelphia, PA 19103

O: 215.569.5574 | M: 610.716.7947 | F: 215.501.5822 | andrew.herman@blankrome.com

From: Flack, Christine <Christine.Flack@nlrb.gov>

Sent: Monday, March 3, 2025 11:08 AM

To: Herman, Andrew <andrew.herman@blankrome.com>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com

Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B.

<Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>

Subject: RE: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

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2pm ET works for us and a Teams link to use would be great. Thanks.

From: Herman, Andrew <andrew.herman@blankrome.com>

Sent: Monday, March 3, 2025 10:58 AM

To: Flack, Christine <Christine.Flack@nlrb.gov>; Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com

Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B.

<Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>

Subject: [EXTERNAL] RE: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

Good morning Ms. Flack,

We can be available at 2 pm ET. We can provide a Teams invite if that would be helpful.

Thank you,

Andrew I. Herman | BLANKROME

One Logan Square | 130 North 18th Street | Philadelphia, PA 19103

O: 215.569.5574 | M: 610.716.7947 | F: 215.501.5822 | andrew.herman@blankrome.com

From: Flack, Christine <Christine.Flack@nlrb.gov>

Sent: Monday, March 3, 2025 9:43 AM

To: Momanaee, Audrey <Audrey.Momanaee@BlankRome.com>; djames@clarkhill.com; Herman, Andrew <andrew.herman@blankrome.com>

Cc: Flanagan, Kevin P. <Kevin.Flanagan@nlrb.gov>; Thomas, Paul <Paul.Thomas@nlrb.gov>; Bowers, Marianne L. <Marianne.Bowers@nlrb.gov>; Melton, Phillip H. <Phillip.Melton@nlrb.gov>; Harris, Samuel B.

<Samuel.Harris@nlrb.gov>; Ewasiuk, Craig <Craig.Ewasiuk@nlrb.gov>

Subject: The Dutra Group v. National Labor Relations Board, 1:25-cv-00090-MAC

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Counsel,

I am one of the attorneys representing the NLRB in this matter. The NLRB plans to file a motion to transfer venue. We also plan to file a motion seeking to hold Plaintiff's motion for a preliminary injunction in abeyance pending a ruling on transfer, or in the alternative, seeking a 2-day extension of time to file the NLRB's opposition to the PI motion on 3/14—we will be seeking expedited consideration of this latter motion and asking that the Court order any opposition be filed by Thursday 3/6.

The EDTX local rules require that we confer by phone before filing our motions. As we plan to file the motion for abeyance or extension today, and file the transfer motion promptly, please let us know your availability today for a call. Our side is available after 11:30am ET.

Thanks,
Christine

Christine Flack
Supervisory Attorney | National Labor Relations Board
Contempt, Compliance, and Special Litigation Branch
Division of Legal Counsel
1015 Half Street SE, Fourth Floor, Washington, D.C. 20003
Ph: (202) 273-2842 | Fax: (202) 273-4244 | Christine.Flack@nlrb.gov

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

THE DUTRA GROUP,

v.

NATIONAL LABOR RELATIONS BOARD,
a federal administrative agency, WILLIAM B.
COWEN, in his official capacity as the Acting
General Counsel of the National Labor
Relations Board, MARVIN E. KAPLAN, in
his official capacity as the Chairman of the
National Labor Relations Board, DAVID M.
PROUTY, in his official capacity as Board
Members of the National Labor Relations
Board, JILL H. COFFMAN, in her official
capacity as a Regional Director for the
National Labor Relations Board, and JOHN
DOE in his official capacity as an
Administrative Law Judge of the National
Labor Relations Board,

Defendants.

Civil Action No. 1:25-cv-00090-MAC

ORDER DENYING DEFENDANTS' MOTION

Upon consideration of Defendants' Motion (ECF 11), it is hereby **ORDERED** that:

1. Defendants' Motion for Expedited Consideration is **DENIED**.
2. Defendants' Motion for Abeyance is **DENIED**.
3. Defendants' Motion for an Extension of Time is **GRANTED**.
4. Defendants are to **RESPOND** to Plaintiff's Motion for Preliminary Injunction by

_____.